

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

(Through Video Conferencing)

EMG-CM No. 01/2020
EMG-CM No. 02/2020
In CSA No. 01/2013

Omkar Singh and anrAppellant(s)
Through: Mr. G. S. Thakur, Advocate.

Vs.

Rajinder SinghRespondent(s)
Through: Mr. P. S. Bhardwaj, Advocate.

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR

ORDER

EMG-CM No. 01/2020.

The application, for the reasons stated, is allowed.

EMG-CM No. 02/2020.

1. This is an application moved by the respondent seeking a direction to the Senior Superintendent of Police, Kathua, to implement the order dated 23.01.2013 read with order dated 09.02.2015 passed by this Court in the main appeal. It is averred that against the judgment and decree dated 16.11.2012 passed by the First Appellate Court (District Judge, Kathua), the appellants have filed a second appeal in which this Court, vide order dated 13.01.2013 directed maintenance of status quo on spot. The appeal was admitted on 09.02.2015 and the interim directions passed on 23.01.2013 were continued. It is the allegation of the respondent that despite there being a clear order of status quo, the appellants, taking the benefit of present situation arising out of lockdown, have started raising

the construction on the suit property. It is urged that in case the appellants are not restrained through the police agency from violating the interim directions passed by this Court, they will succeed in changing the nature of the property.

2. Mr. G. S. Thakur, learned counsel appearing for the appellants, appearing through video conferencing, submitted that he has instructions from his clients to undertake that they will not violate the directions of this Court and the status quo, as it existed on 23.01.2013, shall be maintained.

3. Having heard learned counsel for the parties and perused the record, it is seen that respondent has earned a decree of right of prior purchase with respect to the suit property. The First Appellate Court has affirmed the decree of the trial Court. The appellants are in Second Appeal which has been admitted to hearing vide order dated 09.02.2015. The order dated 13.01.2013 passed in the Second Appeal clearly mandates the parties to maintain status quo with regard to the suit property. In that view of the matter, it is in the interest of justice to ensure that none of the parties to the appeal change the nature of the suit property and violate the interim directions passed by this Court. The allegations made in the application, which are supported by an affidavit and also alleged photographs of the suit property, cannot be disbelieved.

4. Be that as it may, without going into the veracity or otherwise of the allegations made in the application, I deem it appropriate to pass the following order so as to meet the ends of justice:-

5. The SHO, Police Station Kathua shall ensure that order passed by this Court on 23.01.2013 directing the parties to maintain status quo is observed by both the parties in letter and spirit. Neither of the parties shall be permitted to raise any construction over the suit property. The SHO concerned shall file a compliance report in this Court by the next date of hearing.

6. EMG-CM No. 02/2020 is, accordingly, disposed of.

7. Since the appeal is already admitted, it would be appropriate if the parties, instead of filing miscellaneous applications, argue the main appeal itself. Learned counsel for the parties fairly stated that they have no objection if the matter is listed for final consideration in the next cause list.

8. In view of the submission made, the date already fixed in the appeal is preponed and the appeal is directed to be listed on 26.05.2020.

(Sanjeev Kumar)
Judge

Jammu,
15.05.2020

Anil Raina, Addl Registrar/Secy

